

OGC HAS REVIEWED.

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8-2991

D/P 2:4725

Legislation -

3 May 1956/

MEMORANDUM FOR: Legislative Counsel

SUBJECT : Proposed Amendments to the Immigration and Nationality Act

1. This Office has reviewed the changes to the Immigration and Nationality Act proposed by pending Senate bills (S. 3167, 3168, 3169, and 3170) and their companion bills in the House (H. R. 9180, 9181, 9182, and 9183). Discussions have been held with the Security Office, especially its Alien Affairs Staff, and with representatives of the DD/P. We propose two changes, presented in paragraphs 2 and 3 below. In subsequent paragraphs we have discussed other changes suggested by Agency components and our reasons for not sponsoring such changes. The proposed revision to Section 316 might be added to S. 3168 as a new Section 24. The proposed revision of Section 233(b) might be incorporated into the revision now embodied in Section 22 of S. 3168.

2. Sections 316(b) and 316(c) in effect provide that continuity of residence is broken by absence from the United States for more than one year except for those people who have been lawfully admitted for permanent residence and have resided in the United States for an uninterrupted period of at least one year and who thereafter are employed by or under contract with the Government of the United States. The Agency has been granted a specific exception in that the uninterrupted period of at least one year of physical presence in the United States may be complied with by the person employed by or under contract with the Agency at any time prior to filing the petition for naturalization. It would be of material assistance to the Agency if this section could be modified to include the spouses or children of such employees, together with the employees themselves, and if it could be further modified so that there is no specific identification of this Agency in the statute. The proposed new language might read:

"The granting of the benefits of subsection (b) of this section shall not relieve the petitioner from the requirement of physical presence within the United States for the period specified in subsection (a) of this section except in the case of those persons who are employed by, or under contract with, the Government of the United States, or their spouses or children. The requirement in subsection (b) of this section of an

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uninterrupted period of at least one year of physical presence in the United States may be complied with by such persons or their spouses or children at any time prior to filing a petition for naturalization."

3. Section 233(b) currently provides that a re-entry permit shall be initially valid for a period of one year, and that the Attorney General may extend the validity for a period not exceeding one additional year. Two bills now before the Congress (S. 3168 and its companion bill, H. R. 9181) give additional discretion to the Attorney General to extend indefinitely the validity of the permit of a spouse or child of a member of the Armed Forces of the United States stationed abroad pursuant to official orders. It would be of material assistance to this Agency and, one should think, to other United States Government departments and agencies having missions abroad, to broaden this discretion of the Attorney General to embrace extensions of the permits of persons employed abroad by the United States Government or spouses or children of such persons. The following language is proposed:

"Provided further, That the Attorney General may in his discretion extend the validity of the permit of a spouse or child of a member of the Armed Forces of the United States stationed abroad pursuant to official orders, or a person employed by, or under contract with, the Government of the United States abroad or a spouse or child of such person, for such period or periods as the Attorney General shall deem appropriate. The permit shall be in such form as shall be by regulations prescribed for the complete identification of the alien."

4. The revisions suggested above appear to be relatively minor in nature when viewing the Act in its entirety. Several other revisions proposed by Agency components have not been endorsed by this Office, either because they have already been covered in the bills now before the Congress or because they appear to go to matters of substance in immigration and naturalization policy and are therefore most unlikely of approval by the Congress. Examples of suggestions already covered in the bills are those of the ID/P that there be a statutory discretion in fingerprinting aliens rather than making such fingerprinting mandatory, and that unsubscribed quotas might revert to a central pool rather than lapse. The entire quota system is revised in S. 3170, and the Secretary of State or the Attorney General is authorized discretionary waiver of fingerprinting by Section 4 of S. 3168.

5. ID/P also recommended a provision in the law whereby CIA Chiefs abroad could have the name of an alien moved up on the local quota

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registration list. The Agency already has special legislation for the admission of aliens. In addition there are many situations where, by working closely with the Immigration and Naturalization Service here, an alien can be admitted in a "normal" fashion. The order of priorities on the quota list is well established. There is not sufficient indication of the necessity of the proposal for the conduct of Agency business to warrant our requesting such an abrupt policy departure.

6. DD/P also suggested that five years of service for the United States Government abroad should be a basis for permitting an alien's entry as an immigrant. There is a provision in the present law for entry after fifteen years of service. DD/P also suggested that in lieu of the provision of the McCarran Act for five years active opposition to communism, there be substituted a certification by the Agency to the effect that the person involved is not now a communist, has disavowed communism or is an opponent thereof. Since the Attorney General has wide latitude in determining the basis of admissibility and since, on the whole, we have had good success in arranging the entry of persons who have rendered or who are capable of rendering services to this Agency, there seems no reason for requesting a special provision applicable only to this Agency, and small chance of a broad provision encompassing all Government agencies.

7. In line with the recommendation made in paragraph 2, it should be noted that the suggestion was made that the statute should be so revised as to permit the year of physical presence in the United States to be completed at any time prior to naturalization rather than being necessarily an uninterrupted period. To press for such a provision would be to run counter to the philosophy behind this portion of the Act, that an uninterrupted year of physical presence is necessary for the individual to acclimate himself to the United States and its culture. We have already accomplished a good deal by receiving statutory permission that persons utilized by us may complete this uninterrupted year at any time prior to naturalization rather than immediately upon their entry to the United States and prior to their going abroad for any purpose. We will further increase the value of this provision by extending it to spouses and children. The "kiss of death" possibility under the earlier statute can be dissipated if the provision is broadened beyond this Agency as suggested. Taken in conjunction with the recommendation in paragraph 3, it makes it possible for the alien, his spouse and children (when otherwise admissible under the Act or under our special authority) to arrive in the United States one day and to depart immediately the following day for a foreign post of duty under a re-entry permit which may be extended indefinitely. At such time as he returns to the United States, he and his family will commence the one-year period, at the end of which, if otherwise qualified,

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they will be eligible for naturalization. This is a most generous provision, and one that seems adequately to serve the needs of this Agency. For us to ask for broader provisions would seem a species of overreaching. It is for this reason that we cannot endorse the proposal that Section 203(a)(1) of the Act be amended to bring under preference quota those aliens whose services are needed by the United States as well as those whose services are needed in the United States.

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Assistant General Counsel

cc: Director of Security
Deputy Director (Plans)

CONCURRENCES:

SIGNED

Director of Security

21 MAY 1956

Date

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(Signed) 

for

Deputy Director (Plans)

MAY 23 1956

Date

Subject

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